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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,215	01/21/2004	Timothy Ford	055189-0012	2192

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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

EXAMINER

MAY, ROBERT J

ART UNIT	PAPER NUMBER
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2885

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/762,215

Applicant(s)

FORD ET AL.

Examiner

Robert May

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-31, 35, 37, 95, 98-109, 111, 113-117, 119 and 121-139 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 111, 113-117, 119 and 121-138 is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-31, 35, 37, 95, 98-109 and 139 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The allowability of claims 1-11,13-31,35,37,95,98-109,111,113-117,119 and 121-139 is withdrawn in view of the newly discovered reference to Moore (US 2,797,310). Prosecution in this application has been reopened. Rejections based on the newly discovered reference follow.

Claim Objections

Claim 102 is objected to because it depends from a cancelled claim and it suggested that "Claim 97" on line 1 be changed to --Claim 95--.

Claim 106 is objected to because "as each opposite side" is unclear and is apparently meant to recite --at each opposite side--.

Claim 139 is identical in structure to Claim 20 and it is suggested to cancel Claim 139.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 13, 24-26, 31, 95 and 107 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (2,797,310).

Regarding Claims 1, Moore discloses in Figures 7-8, a light support comprising a base plate 37 comprising an anchoring element formed integrally as part of the base plate and configured to penetrate an earthen material (Col 3, lines 50-63), a surface mounting face for co-acting with a surface (for mounting to a wall Col 3, lines 58-62), a light carrying plate 25 comprising a proximal end mounted to the base plate adapted for mounting a light 24 thereon (Figure 2), wherein the surface mounting face (of 37) spans a common face defined by said base plate and anchoring element (as shown in Figure 7, the anchoring element and base plate formed by element 37 would span a common face if abutted against a flat surface).

Regarding Claim 2, Moore discloses in Figures 7-8 the anchoring element 37 as being tapered (sharpened end for insertion into ground Col 2, lines 15-19).

Regarding Claim 3, Moore discloses in Figure 7 the anchoring element (formed by base plate 37) extending from one end of said base plate 37 and light carrying plate 25 mounted near an opposite side of base plate 37.

Regarding Claim 13, Moore discloses in Figures 7-8, the surface mounting face 37 comprising a fastener-receiving aperture 38.

Regarding Claim 24, Moore discloses in Figure 2, the light-carrying plate 5 comprising a light receiving face (plate 5 receives light 24 as shown).

Regarding Claim 25, Moore discloses the light receiving face comprises a light-receiving element (cylindrical opening 15 Col 2, lines 20-21).

Regarding Claim 26, Moore discloses the base plate as comprising an anti-tipping assembly (screws placed through screw holes 38 preventing light from tipping over Col 3, lines 58-63).

Regarding Claim 31, Moore discloses a first auxiliary element (screw hole 38) that spans a common face defined by the base plate 37 and anchoring element (tapered end of base plate 37 for penetrating an earthen material).

Regarding Claim 95, Moore discloses in Figure 9, a light support comprising a base plate 37 comprising a surface mounting face (right side of plate 37 for co-acting with a surface), a second auxiliary element 36 movably mounted thereto, a light carrying plate 25 comprising a proximal end mounted to the base plate 37 and being adapted for mounting a light 35 thereon wherein the base plate 37 defines a cavity for slidably receiving said auxiliary element 36 (screw is slid is screwed or slid into cavity defined by base plate 37).

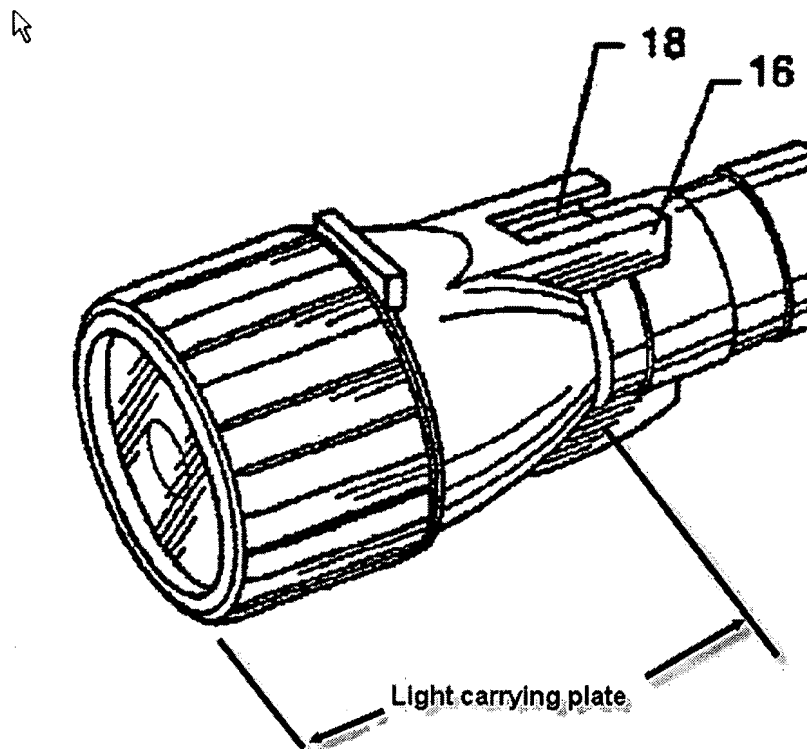
Regarding Claim 107, Moore discloses the auxiliary element 36 as an anchoring member (screw 36 anchors the base plate 37 to the light carrying plate 25).

Claims 95, 98-105 and 108 are rejected under 35 U.S.C. 102(b) as being anticipated by Kung.

Regarding Claim 95, Kung discloses in Figures 1, 3 and 4a, a light support assembly comprising a surface mounting face 16, 18 for coacting with a surface, an auxiliary element 20 movably mounted thereto, a light carrying plate (body of flashlight as shown in figure) comprising a proximal end mounted to the base plate 16, 18

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adapted for mounting a light thereon. The base plate defines a cavity (as defined by 18 and 16) for slidably receiving the auxiliary element 20 therein.



Regarding Claim 98, Kung discloses the cavity delimited by opposite closed and open ends and opposite side walls.

Regarding Claim 99, Kung discloses the auxiliary element 20 as movable between internal and external positions (auxiliary element is either internally inserted or externally disengaged with base plate 16, 18)

Regarding Claim 100, Kung discloses in Figure 4a the auxiliary element 20 as comprising distal (at 28) and proximal end (at 5), where distal end being near said cavity end when in said internal position (element inserted into cavity) and proximal end

protruding through said cavity open end when in said external position (proximal portion of element 20 protrudes through cavity as shown in Figure 1).

Regarding Claim 101, Kung discloses the distal end of auxiliary element 20 as being flush with said cavity closed end (abutted against end of 16, 18 after fully inserted) when in internal position.

Regarding Claims 102-103, Kung discloses in Figure 3, the auxiliary element 20 and base plate including mutually engaging stoppers 22, 28 and 30 so as not to be dissociated (preventing unintentional release Col 4, lines 23-26) and the base plate 16, 18 including stoppers near cavity open end (shoulders of cavity open end of 16, 18 into which auxiliary element 20 is inserted).

Regarding Claims 104-105, Kung discloses in Figure 3, stoppers that are protrusion members formed on each the opposite side walls of the cavity and the auxiliary element stoppers engaging the protrusion members when in internal position.

Regarding Claim 108, Kung discloses in Figure 4a, the auxiliary element 20 comprising a surface mounting element (adapted to be mounted to the surface of the flashlight as shown).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 and 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Davis (5,386,356).

Moore fails to disclose the proximal end of the light-carrying plate as being pivotally mounted to the base plate where proximal end is hinged or comprises an aperture for receiving a pivot member and a pair of spaced apart receiving members.

Davis discloses in Figure 1, a light support comprising a proximal end of a base plate 24 hingedly mounted to a base plate 22 comprising an aperture for receiving a pivot member 23 for adjustment of the illumination pattern of the lamp in a backyard setting.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support of Moore with the pivotally mounted light-carrying plate of Davis for adjustment of the illumination pattern of the lamp in a backyard setting.

Claim 106 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kung.

Kung fails to disclose protrusions at each of the opposite sides of the longitudinal body. This appears to be mere duplication of parts and one would be motivated to have protrusions at each opposite side of the longitudinal body to control depth that the auxiliary element 20 is inserted into the cavity of the base member 16, 18. Furthermore, the mere duplication of parts has no patentable significance unless a new and unexpected result is achieved (*In re Harza*, 274 F.2d 669, 124 USPQ 378).

Claim 4-7, 17, 19-20, 109 and 139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Herrick.

Regarding Claims 4-7, and 109 Moore fails to disclose the proximal end of the light-carrying plate as being pivotally mounted to the base plate where proximal end is hinged or comprises an aperture for receiving a pivot member and a pair of spaced apart receiving members.

Herrick discloses in Figures 1 and 2, a light carrying plate 22 as being pivotally mounted to a base plate 12 (mounted at 40) where the proximal end is hingedly attached and comprises an aperture for receiving a pivot member (40, 42) and the base plate comprising two spaced apart receiving members 46a, 46b for adjusting the angle or direction of emitted light.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the light-carrying plate of Moore be pivotally mounted to the base plate with a hinge and aperture for receiving pivot member as taught by Herrick so that the angle or direction of emitted light can be changed.

Regarding Claim 17, Moore fails to disclose the surface mounting face comprising adhesive.

Herrick discloses a surface mounting face for a light support comprising an adhesive to affix to a surface (Col 3, lines 57-60), which would have been known to one of ordinary skill in the art to be a very common and versatile commodity for attaching elements to each other.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made apply adhesive to the surface mounting face of Moore because would have been known to one of ordinary skill in the art to be a very common and versatile commodity for attaching elements to each other.

Regarding Claims 19-20 and 139, Moore fails to disclose the surface mounting face as comprising a curved or concave structure.

Herrick discloses in Figure 1 and 2, a curved or concave surface mounting face (bottom surface of base plate 12) for affixing to curved surfaces such as a helmet 52.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the surface mounting face of Moore with the curved and concave surface as taught by Herrick for affixing the base plate to curved surfaces such as a helmet.

Claims 4, 8-10, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Ciesiun.

Regarding Claims 4 and 8-10, Moore fails to disclose the proximal end pivotally mounted to the base plate and proximal end comprises a cylindrical member pivotally mounted to said base plate and pivotal about a longitudinal axis body portion with a series of ridges on the outer surface thereof disposed on the proximal end of the light carrying plate or a rib disposed a the proximal end receiving portion for interfering or engaging with the ridges of the cylindrical body.

Ciesiun discloses in Figure 1, a device for securing a lighting apparatus to a mask wherein a hinge portion has a series of ridges 28 upon a cylindrical portion 24 which rotates along a longitudinal axis for minimizing movement of the lighting apparatus during use (Col 3, Lines 33-36) that engages with a cooperating portion of the lighting apparatus (Col 3, Lines 34-36) which would be obvious to one of ordinary skill to include a rib like protrusion to interfere with the ridges. Furthermore, the shifting in position of the ridges 28 from the cylindrical receiving portion of Ciesiun to the cylindrical body of the pivotal member of Herrick does not modify the operation of the device and is therefore considered obvious see *In re Japikse*, 181 F.2d 1019.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the cylindrical body of Moore with the surface defined ridges 28 of Ciesiun and a rib like member on the proximal end receiving portion 14 of Ciesiun in order to minimize movement of the lighting apparatus during use.

Regarding Claims 14 and 18, Moore fails to disclose a strap member-receiving aperture disposed on the base plate or surface mounting face.

Ciesiun discloses in Figure 1 a strap receiving aperture 20 for mounting a lamp to a paintball mask which is disposed upon the base plate 12. It would have been obvious to modify the teachings of Whittington by adding a belt receiving aperture in order to have a light support that could be easily attached or detached without having to remove fasteners in order to detach the light support.

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Therefore it would be obvious to one of ordinary skill to modify the light support of Moore with the belt strap apertures of Ciesiun because it would provide for a support that could be easily attached or detached from a helmet or hood.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Diau.

Moore fails to disclose a magnetic element on the surface mounting face. Diau discloses a working light where a magnetic material 4 is located on the mounting face as an easily detachable securing means.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the surface mounting face of Herrick with the magnetic material 4 of Diau so as to provide an easily detachable securing means.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Allen.

Moore fails to disclose a light support as recited in Claim 1 wherein the surface mounting face comprises a suction element.

Allen discloses a portable light with a base plate and a suction cup 22 so the portable light can be easily attached to smooth surfaces, such as a car window (Col 3, Lines 22-25). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the surface mounting face of Herrick with the

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suction element of Allen so that the light support can be mounted to smooth surfaces such as car windows.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable under 35 U.S.C. 103(a) over Moore in view of Taylor (3,713,614).

Moore fails to disclose a light support where the support mounting face comprises a pad member.

Taylor discloses a surface mounting face comprising a pad member 32 on a surface mounting face for serving as stand-off of shock and vibration absorbing means (Col 2, lines 21-26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the surface mounting face of Moore with the pad of Taylor for serving as stand-off of shock and vibration absorbing means.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Mosquera.

Regarding Claim 22, Moore fails to disclose a light plate receiving plate opposite the support-mounting face where the light carrying plate is movable towards and away from the light plate-receiving face.

Mosquera discloses in Figures 1-3 a flashlight holding and positioning device where the light holding plate 12 engages with the light plate receiving surface of the

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base 10 when the apparatus is in the closed position and the light holding plate pivots away from the plate receiving surface.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a surface, which engages or receives the light holding plate in order to better secure the light holding plate to prevent any lateral movement of the light holding plate.

Regarding Claim 23, Moore fails to disclose a light support where the light receiving face comprises a pair of finger members for snugly fitting said light carrying plate to the light receiving face when light-carrying plate is in a folded position.

Mosquera discloses a pair of fingers (along each side of the base 10, as pointed out in the figure below) for securing the light carrying plate 12.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base plate of Herrick with the finger members of Mosquera to secure the light carrying plate.

Claims 26-27, and 29 are a rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Garbs.

Moore fails to disclose a base comprising an anti-tipping assembly that is pivotally mounted to the base plate.

Garbs discloses an anti-tipping assembly (suction element 10 in Figure 1 attached to as base 14) that is pivotally mounted (at 16) to the base plate 14 for

securing the light temporarily (Page 1, lines 1-5) to most surfaces and allowing the light direction to be adjusted.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Herrick by adding the anti-tipping assembly of Garbs so that the light can be secured temporarily to surfaces and the light direction adjusted.

Claims 26-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Kung.

Moore fails to disclose the base plate as comprising an anti-tipping assembly comprising an anti-tipping element which is a leg member.

Kung discloses in Figure 1, anti-tipping assembly 7 comprising an anti-tipping leg 38 that can be detachably affixed to a base plate 16 so that the light can be supported in a number of environments (Col 2, lines 5-6).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base plate of Moore with the anti-tipping assembly comprising two legs of Kung so that the light support can be supported on a horizontal surface.

Claims 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Dugmore.

Moore fails to disclose the auxiliary element mounted to said surface mounting face.

Dugmore discloses in Figure 1, an auxiliary element 18 that is mounted to the surface mounting face that comprises strap-receiving apertures 72 for mounting the light support to a head of a wearer.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the light support of Whittington with the auxiliary element of Dugmore comprising strap receiving apertures mounted to the surface mounted face so that the light support can be mounted to the head of a wearer.

Allowable Subject Matter

Claims 111, 113-117, 119, and 121-138 are allowed.

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding Claim 11, the prior art does not teach or show the claimed light support with a proximal end receiving portion comprising a notch adjacent said rib.

Regarding Claims 111 and 113-117, the prior art does not teach or suggest an anti tipping member comprising a member selected from the group consisting of a leg member, a finger member, a tab member, a bar member and a combination thereof.

Regarding Claims 119 and 121-138, the prior art does not teach or suggest or show an anchoring element extending from one side of the base plate and an auxiliary element extending from an opposite side of said base plate where the surface mounting face spans a common face defined by said base plate, said anchoring element and said auxiliary element.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert May whose telephone number is (571) 272-5919. The examiner can normally be reached between 9 am– 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong (James) Lee can be reached on (571) 272-7044. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval PAIR system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RM

3/19/07

A handwritten signature in black ink, appearing to read 'J. Lee', is positioned above the printed name.

JONG-SUK (JAMES) LEE
SUPERVISORY PATENT EXAMINER



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GODFREY & KAHN S.C. 780 NORTH WATER STREET MILWAUKEE, WI 53202			MAY, ROBERT J	
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